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assessed and not against the city to compel further assessments. The vital distinction is that in such cases there is no burden placed upon the general taxpayers of the future as there is in the principal case. Other cases cited may be distinguished on the ground that the city was merely given an option and was not put under any obligation. *Burnham v. City of Milwaukee*, 98 Wis. 128. Though the subject is in a somewhat confused state, the decision of the federal court seems clearly justified on authority as well as right in principle. See *City of Joliet v. Alexander*, 194 Ill. 457. A contrary decision would allow cities to nullify the constitutional provisions by levying continuing taxes to provide for all obligations they wished to incur.

DISCRETIONARY POWER OF COURTS OF EQUITY. — There is no more distinctive attribute of the power of the chancellor than the latitude of his discretion. Equitable remedies being extraordinary, they may, at the chancellor's discretion, be refused or given in order to do equity. And equity is viewed in this connection in a large sense; it is not only what is just and right as between plaintiff and defendant, but also what, according to a sound public policy, is just and right as regards the interests of the public. Thus, where the plaintiff would not otherwise have succeeded, we see equity giving relief because of the public benefit; and where the plaintiff would ordinarily have prevailed, refusing it because of the public harm. *Joy v. St. Louis*, 180 U. S. 1, 50; *Conger v. N. Y. Co.*, 120 N. Y. 29.

How far this power should be extended is involved in the consideration of a recent case, where a plaintiff sought to enjoin the infringement of his patent on bogus coin detectors. The defendant established that the plaintiff used these detectors exclusively to guard gambling machines. The court, one judge dissenting, nevertheless granted the injunction, on the ground that the "taint regarded must affect the particular rights asserted in the suit." *Fuller v. Berger*, 35 Chic. Leg. News 221 (C. C. A., Seventh Circ.). It is believed that on principle a different result should have been reached. Evidently the majority considered that the case involved only the maxim, "the plaintiff must come into equity with clean hands," and hence applied its legitimate limitation, that the wrong-doing must be connected with the transaction between the plaintiff and the defendant. *Bateman v. Fargason*, 4 Fed. Rep. 32. But the question really involved is a much broader one, and not at all one between the parties. It is the question whether equity, representing the conscience of the public, should directly assist an iniquitous undertaking. In view of the entire attitude and conception of courts of equity, the answer to this would seem to be that it should not. The principal case may be largely explained by the nature of its facts. The majority seem to have doubted whether gambling has yet become sufficiently unconscionable to warrant a refusal of relief, and, moreover, since the defendant also was using the invention for gambling, they may well have thought that the injunction would decrease, rather than aid, the objectionable practice. They cite as authority, *Brown Saddle Co. v. Troxel*, 98 Fed. Rep. 620, and *National Folding Box Co. v. Robertson*, 99 Fed. Rep. 985. But although these were patent cases in which an injunction was granted despite the fact that the plaintiff was violating the anti-trust laws, they may be distinguished. The iniquity alleged was only *mala prohibita*, and to assist a monopoly is only what a court of equity is necessarily called upon to do whenever it enforces a patent. The true rule would seem to be stated in the dissenting opinion.

"The chancellor is master of his own writ, and though the claimant hold a legal title, is under no compulsion of law to issue the writ, so long as sound consideration of public morals and conscience forbid."

THE STATUTE OF LIMITATIONS IN MORTGAGE LAW. — In discussing mortgage law the two conflicting conceptions must be noted: first, that a mortgage gives a right in land distinct and separable from the debt; and second, that it gives a mere lien wholly incidental to, and dependent upon, the debt. In states adopting the first view the mortgagee acquires a legal title, and the questions raised by the statute of limitations are comparatively simple. As it is well recognized that he has two distinct rights, one on the debt and the other against the land, the fact that the first is barred does not affect the second; and it is general law that the mortgagee may foreclose at any time, even after the debt is unenforceable. *Thayer v. Mann*, 19 Pick. (Mass.) 535. Still this is not universal law even in "title" states. *Harris v. Mills*, 28 Ill. 44.

On the other hand in states where the mortgage is considered as purely incidental, more difficult questions arise. In strict logic, if the mortgage is a mere incident to the debt, it is clear that the extinguishment or outlawing of the one should extinguish the other. This doctrine, harsh as it is upon the mortgagee, has been adopted, either by statute or at common law, in a few states. See JONES, MORT. § 1207. In Kansas and Iowa this dependence of the mortgage upon the debt is carried so far that where they have both been outlawed and the latter is revived, the former is revived also. *Schmucker v. Sibert*, 18 Kan. 104; *Clinton County v. Cox*, 37 Ia. 570. Singularly enough this extreme view is not confined to "lien" states. *Schiffenstein v. Allison*, 123 Ill. 662.

In the majority of jurisdictions, however, the exact logic of the situation is not completely recognized. The mortgagee is allowed to foreclose whether the debt is barred or not — a result theoretically wrong, but obviously just. Ohio has adopted a peculiar middle ground. Though the law there is that after default the mortgagee has, as between himself and the mortgagor, the legal title, and though he can foreclose after the debt is barred, still if the statutory period has run against the mortgage as a specialty he cannot foreclose. *Kerr v. Lydecker*, 51 Oh. St. 240. This rule is rendered the more remarkable by a recent holding that the mortgagee may bring ejectment even after the debt is barred and his right to foreclose is also gone. *Bradfield v. Hale*, 65 N. E. Rep. 1008. This position seems somewhat inconsistent. If the plaintiff is entitled to maintain ejectment it means that he has the right to possession, and as by the case cited above he has the legal title it seems that he should acquire the whole estate free and clear. But so long as foreclosure is denied the land must always remain — as the court acknowledges — subject to redemption, an unfortunate result of a compromise doctrine. It seems that in "title" states nothing but twenty years adverse possession by the mortgagor should bar the mortgagee's right to eject or to foreclose. In "lien" states the wiser course, and one which a majority of the courts have adopted, is to admit frankly that the strict theory fails, and to accomplish justice by granting the mortgagee a more than merely "incidental" right against the land.